



A User's Guide To New Policies and Procedures Published by the MSPB

Legal Updates to the Mississippi
State Employee Handbook and the
MSPB Policy and Procedures
Manual



The Mississippi State Employee Handbook

- Overhaul to Section 8: Benefits of Being a State Government Employee in Mississippi
 - Divided Section into three Chapters
 - Chapter 3: Holidays and Leave
 - Chapter 4: Employee Benefits
 - Chapter 5: Standards of Employee Conduct
- Changes to Section 10
 - Chapter 7: Discipline, Corrective Action and Separation of Employment
- Changes to Section 11
 - Chapter 8: Grievances and Appeals



Chapter 3:

Holidays and Leave

Areas of Frequent Concern

- **Personal and Major Medical Leave**
 - Available the first day of the month after leave is earned
 - No limit to accumulation
 - Personal leave may only be taken upon approval
 - Agency may reasonably deny use of personal leave
 - Agency may not deny use of medical leave if FMLA qualifying

• Use of Leave for Illness

- First day of illness must be taken as personal leave, leave without pay or compensatory leave
- Subsequent consecutive days of illness may be taken as medical leave
- Agency may require doctor's excuse for any illness of 32 consecutive hours
 - If absence is not consecutive, agency may not require doctor's excuse, but employee must use a day of personal leave for each non-consecutive absence

• Compensatory Leave

- Exempt versus non-exempt status pursuant to FLSA is key to determination of entitlement to compensatory leave
- Agency may grant compensatory leave to any state employee but MUST allow non-exempt employees to accumulate compensatory leave or pay overtime to those employees who work more than forty hours in a workweek

- Non-exempt employees must be given compensatory time at time-and-a-half for ANY time worked over forty hours in a week
- Agency may require prior approval for overtime
- If employee does not comply with approval procedure, agency must still pay compensatory time but may discipline employee for failure to comply
- FLSA limits the amount of compensatory time that may be paid in lieu of overtime pay

- U.S. Department of Labor Wage and Hour Division Website: E-Laws Advisor for Overtime/Compensatory Time Requirements
<http://www.dol.gov/elaws/esa/flsa/overtime/menu.htm>
- DOL Website has many useful tools
 - E-Laws Advisor
 - Fact Sheets
 - Frequently Asked Questions
 - Summaries of Laws
 - Links to Statutory or Regulatory Language
 - Other Areas of Potential Interest
 - FMLA
 - FLSA
 - USERRA
 - Immigrant Workers
 - Child Labor



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Main Menu

When Congress enacted the FLSA, it created an exemption from the minimum wage and overtime pay requirements for "any employee employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman." Congress did not define these terms but instead granted authority to the Secretary of Labor to do so. Because your definitions of these terms may not match DOL's definitions, you may want to first review the [Fact Sheet](#) for a particular exemption to learn more about it or you may want to review the [occupational index](#) for help in determining which section to use. Please remember that to qualify for an exemption, an employee must meet specific duties tests **and**, in most cases, minimum compensation requirements.

Please be aware that the Advisor may not be able to address every employment situation. Rather, the Advisor is designed to help employees and employers understand the general application of these regulations. You may want to review [Fact Sheet 17A: Exemption for Executive, Administrative, Professional, Computer and Outside Sales Employees Under the FLSA](#) to help determine whether this Advisor applies to your employment situation. Please select one of the sections below:

Compensation Requirements

This section helps you in understanding the compensation requirements for a particular employee to be exempt from the minimum wage and overtime pay requirements of the FLSA.

- [Review Fact Sheet](#)
- [Start Compensation Requirements section](#)

Executive Employee section

This section helps you in determining whether a department manager who supervises other employees meets the duties tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review Fact Sheet](#)
- [Start Executive Employee section](#)

Administrative Employee section

This section helps you in determining whether a particular employee who works in a management or general business function (e.g., Human Resources, Accounting) meets the duties tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review Fact Sheet](#)
- [Start Administrative Employee section](#)

Professional Employee section

This section helps you in determining whether a particular employee who performs work in a recognized professional field (e.g., law, medicine, science, music, art, teaching) meets the duties tests for exemption from the minimum wage and overtime pay requirements of the FLSA.

- [Review the Fact Sheet](#)
- [Start Professional Employee section](#)

• Payment for Accumulated Leave at Retirement

- Cash payment for thirty days of accumulated personal leave – any days over thirty are applied as creditable service
- No cash payment for any accumulated medical leave – all is applied as creditable service
- Updated Conversion Chart for unused uncompensated leave added to MSPB policies

Conversion of Accumulated Unused Uncompensated Leave


Combined Personal and Sick Leave	Credit Equivalent	Combined Personal and Sick Leave	Credit Equivalent
15 to 77 days	.25 year	393 to 455 days	1.75 years
78 to 140 days (624 to 1127 hours)	.50 year	456 to 518 days (3648 to 4151 hours)	2.00 years
141 to 203 days (1128 to 1631 hours)	.75 year	519 to 581 days (4152 to 4655 hours)	2.25 years
204 to 266 days (1632 to 2135 hours)	1.00 year	582 to 644 days (4656 to 5159 hours)	2.50 years
267 to 392 days (2136 to 2639 hours)	1.25 years	645 to 707 days (5160 to 5663 hours)	2.75 years
330 to 392 days (2640 to 3143 hours)	1.50 years	708 to 770 days (5664 to 6167 hours)	3.00 years

• Military Leave

- Members of military reserves are entitled to 15 days (120 hours) of paid leave per year by Mississippi statute
 - Must have Orders ordering the employee to duty for training, military exercises or other mandatory or voluntary military duty
- Also entitled by Mississippi law to unlimited unpaid leaves of absence without loss of time, annual leave or efficiency rating if ordered to duty (must have Orders or “papers”)

▫ Uniformed Services Employment and Reemployment Rights Act

- Provides service members with right to reemployment to the same job and benefits upon return from service, whether voluntary or involuntary
- Service member must:
 - Provide employer with reasonable advance notice of return (either written or verbal)
 - Return to work in a timely manner
 - Receive an honorable discharge from the service



Chapter 4:

Employee Benefits

Updates


- Worker's Compensation Section
 - Updated to reflect prohibition against receiving more than normal wage amounts as a result of receiving disability payments

• Retirement

- Vesting period is eight years for employees employed on or after July 1, 2007
- Vesting period is four years for employees employed at any time prior to July 1, 2007
- Eligibility for retirement for employees employed on or after July 1, 2007: 25 years of service or at age 60 with at least eight years of service
- Eligibility for retirement for employees employed at any time prior to July 1, 2007: 25 years of service or at age 60 with at least four years of service

• Insurance

- Depending on the employee's specific employment status, the State pays some portion of the employee's monthly health insurance premium
- Employees employed on or after July 1, 2007: the State pays a portion of the employee's monthly health insurance premium, but the employee is currently responsible for \$18.00 per month



Chapter 5: Standards of Employee Conduct

New and Updated Policies

- Workplace Harassment
 - Now includes sexual harassment (no separate sexual harassment policy)

- Employee Use of State Property
 - Contains a general statement prohibiting personal use of State property and five separate specific policies concerning State property
 - Wireless Communications Devices and Electronic Communications
 - Storage of Information
 - Expectation of Privacy
 - Right to Search
 - Personal Property

- Wireless Communication Devices and Electronic Communications
 - Defines wireless communication devices: cellular phones, personal digital assistant devices, standard and two-way pagers, and any other similar devices that perform some or all of the same functions
 - Informs employees that use of wireless communications equipment may be monitored
 - Prohibits personal use of cellular phones
 - Informs employees that wireless transmissions are not secure and that confidential information should be transmitted from a secure environment

▫ Storage of Information

- All information pertaining to State Agency work should be stored according to dictated procedures such that others have access
- Prohibition against prohibiting access either by locking physical property or by altering electronic programs to prohibit access in absence of Agency direction

▫ Right to Search

- The Agency has the right to conduct reasonable searches at any time of State property for any reason related to the operation of State business
- With a reasonable basis to believe an employee may be in possession of illegal drugs, weapons, explosives or contraband, an Agency may conduct inspections or searches on, around or in State property, at any time, without notice

▫ Personal Property


- Routine searches of State property may result in the discovery of an employee's personal possession or personal information
- Employees are encouraged not to store or bring to the workplace any personal property or to transmit or obtain the transmission of person information or messages using State-owned equipment

• Discouraged Relationships

- Informs employees that they should not maintain an intimate relationship with someone in the their direct chain of command
- Does not specifically prohibit such behavior
- Not specifically unethical, but inevitably leads to ethical problems when dealing with pay raises and employee evaluations
- Agencies may choose to specifically prohibit such relationships

• Outside Employment

- Provides guidelines for obtaining agency approval for secondary employment
- Informs employees that employment with the State is the employee's primary job responsibility
- Employees must submit a request for approval to the individual designated by the agency prior to employment: when outside employment exists at the time of hire, when previously approved employment is discontinued or changed either in scope or nature, or when outside employment is contemplated after employment with the State



Chapter 7:

Discipline, Corrective Action and Separation of Employment

New Group Three Offenses

- Unauthorized Use of State Property
- Willful violation of MSPB policies, rules and regulations, including but not limited to refusing to cooperate or giving a false statement in an investigation of possible violation of MSPB policies, rules or regulations

Discipline

- Suspension, Demotion and Termination
 - Require a due process hearing before implementation
 - No other grievance process is required prior to appeal to the Mississippi Employee Appeals Board
- Written Reprimands
 - Only form of formal discipline that requires use of the Grievance Procedure outlined in Chapter 8



Chapter 8:

Grievances and Appeals

Grievance Process

- Step I

- No longer requires an oral response or memorandum signed by employee
- Supervisor must investigate grievance and meet with employee within three working days
- Supervisor must provide written response to grievance within three working days after the meeting with the employee

• Step II

- Employee may advance grievance to Step II within three working days of receiving Step I response
- Step II supervisor must investigate grievance and meet with employee within three working days of receipt of the employee's grievance form
- Step II supervisor must provide a written response to the grievance within three working days of the meeting
- Restrictions on attendance at meeting have been removed (attorneys may now attend)

• Step III

- Employee has three working days to advance the grievance to the Step III supervisor
- Step III supervisor must investigate and meet with employee within FIVE working days of receipt of the grievance form
- Step III supervisor must provide a written response to the grievance within FIVE working days of the meeting

• Step IV

- Employee may advance the grievance to the agency head within three working days of receipt of the Step III response
- Agencies with only three levels of management should skip the Step II requirements and move straight to Steps III and IV
- Step IV supervisor must review the grievance and relevant information and meet with employee within SEVEN working days of receiving the grievance form
- Step IV supervisor must provide a final agency decision within SEVEN working days after the meeting

Special Procedure for Harassment and Discrimination Claims

- When the employee's grievance is a complaint of unlawful discrimination or harassment:
 - If the source of the alleged discrimination or harassment is in the employee's chain of command, the employee may skip the source of the alleged discrimination or harassment's level of management
 - If the alleged source is the employee's agency head, the employee may contact the MSPB Executive Director for assistance
 - Separate grievance procedure for sexual harassment has been deleted



MSPB Policy and Procedures Manual

- Changes to conform to Handbook
- Other changes
 - Application rating
 - Reduction in Force Policy

Application Rating

- Change from Scored method to Pass/Fail method
 - All who meet minimum qualifications for employment are scored at “70”
 - Veterans still get preference points
 - Results in larger Certificates of Eligibles containing all applicants who meet minimum qualifications
 - Allows agencies greater freedom to consider a larger pool of applicants

Reduction in Force Policy

- Policy now factors an actual three year average score rather than assigning a designated point value to a range of averages
- Implementation questions can be directed to Human Capital Core Processes Consultants

Agency Specific Policies

- Leave Approval Requests
- Major Medical Leave
 - Submission of doctor's excuse
- Overtime Approval Requests
 - Notice of disciplinary action for failure to comply
- Use of Compensatory Time
- Military Leave Notice Requirements
- Work Schedules
- Public Records Act Policy
- Storage of Agency Information by Employees

- FMLA Policy

- Method of determining twelve month period
- Forms for use in requesting approval
- Intermittent leave approval
- Employee notice requirements
- Medical certification return
- Concurrent or consecutive use of Personal and Major Medical Leave

- Discouraged Relationships Policy

- Agency may choose to prohibit such relationships

- Outside Employment Approval Process

- Maintenance of Confidential Information

- Drug Testing Policy